

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Marc T. Crain,

Plaintiff

v.

Mercedes Benz of USA,

Defendant

Case No. 2:22-cv-00806-CDS-BNW

**Order Granting Motion to Dismiss
and Closing Case**

[ECF No. 22]

Pro se plaintiff Marc Crain brings this lawsuit, containing an array of allegations,¹ including that his father presented a title document to Mercedes-Benz of Henderson and took possession of Crain's vehicle. *See* Compl., ECF No. 5 at 12. Crain asserts that Mercedes-Benz of Henderson employees "would not help [when he] requested they call Henderson Police[.]" *Id.* at 13. Crain named and served Mercedes Benz of USA (MBUSA), which appeared in this action by filing a motion to dismiss and asserting that Crain's complaint must be dismissed under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. Mot. Dismiss, ECF No. 22. As of this order's filing, Crain has not filed an opposition to the motion, nor has he requested more time to do so. For the reasons set forth herein, I hereby grant MBUSA's motion to dismiss and direct the Clerk of Court to close this case.

I. Discussion

Public policy favors disposition of cases on their merits. *See Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998). But this case cannot be decided on the merits due to Crain's failure to defend his complaint against MBUSA's Rule 12(b)(6) motion. The Ninth Circuit has

¹ While courts must liberally construe documents filed by pro se litigants and afford them the benefit of any doubt, *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (citing *Haines v. Kerner*, 404 U.S. 519 (1972)), the allegations in Crain's complaint are difficult to decipher.

1 held that unlike motions for summary judgment, a district court is not required to examine the
2 merits of an unopposed motion to dismiss before granting it. See *Ghazali v. Moran*, 46 F.3d 52, 54
3 (9th Cir. 1995) (“the Ninth Circuit refused to extend to motions to dismiss the requirement that
4 a district court examine the merits of an unopposed motion for summary judgment before
5 summarily granting it pursuant to a local rule.” (*Wystrach v. Ciachurski*, 267 Fed App’x. 606, 609
6 (9th Cir. 2008)). So I exercise that discretion here and choose to grant MBUSA’s motion under
7 this district’s local rules: “The failure of an opposing party to file points and authorities in
8 response to any motion . . . constitutes a consent to the granting of the motion.” LR 7-2(d).

9 **II. Conclusion**

10 IT IS THEREFORE ORDERED that defendant Mercedes Benz of USA’s **motion to**
11 **dismiss [ECF No. 22] is GRANTED.**

12 The Clerk of Court is directed to CLOSE THIS CASE.

13 Dated: November 28, 2022

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16 Cristina D. Silva
17 United States District Judge
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